

No. 9/5/84-Lab./5096.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Universal Conveyor Belting Ltd., 10-11 Gurukul, Inderparath Estate, P.O. Amar Nagar, Faridabad:—

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 251/83

between

SHRI BHUVNESHWAR MANDAL, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S. UNIVERSAL CONVEYOR BELTING LTD., 10-11, GURUKUL, INDERPARASTH ESTATE, P.O. AMAR NAGAR, FARIDABAD.

Present:—

Shri Jawahar Lal, for the workman.

Shri J. S. Sarena, for the respondent's management.

AWARD

This industrial dispute between the workman Shri Bhuvneshwar Mandal, and the respondent-management of M/s. Universal Conveyor Belting Ltd., 10-11, Gurukul, Inder Parasth Estate, P.O. Amar Nagar, Faridabad has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/45470-75, 5th September, 1983, under Section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Bhuvneshwar Mandal was justified and in order? If not to what relief is he entitled?

According to the claim-statement, the claimant was appointed on 19th September, 1978. He was working 16 hours daily. He gave several letters to the management to get the benefit of 8 hours a day. When he also demanded minimum wages he was threatened to be dismissed. He is member of the union. Hence

his services were terminated. He has claimed reinstatement with full back wages.

This reference has been contested by the management. It is admitted that he was appointed on 19th September, 1978 with free food, tea and refreshment and free accommodation. It is true that he was terminated on 22nd January, 1983. The claimant misbehaved and quarreled with Shri R. P. Gupta, Mr. J. P. Sharma, and Shri S. R. Sharma and other staff members on 11th January, 1983. He used filthy and unprintable language against Miss Bharti, Telephone Operator of the respondent management. The other allegations are said to be false and baseless.

These averments have been denied in the rejoinder. The reference was contested on the following issues:—

1. As per reference?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issue are as under:—

Issue No. I:—

It is admitted that no enquiry was held about the misconduct of the workman so the management produced his witnesses in this court for the misconduct of the workman. Shri M. K. Chaku has stated that when Miss Bharti was warming her food in the kitchen the workman was calling her Hijra. He had further stated that had she not been Hijra she had been married and had children. On this Miss Bharti started weeping. She had given complaint Exhibit M-4 to the manager. The claimant was called by the manager. There he did not admit his guilt. MW-3 Shri S. K. Sharma has stated that the claimant had misbehaved many times. Hence they have filed complaint to the management. Miss Bharti came to his office weeping. She had stated that the claimant had called her Hijra. Shri Chaku also supported her version and the claimant refused to beg pardon. After that he terminated the services of the workman with all benefits,—vide termination letter is Exhibit M-5. Miss Bharti was also examined on commission on 8th September, 1984. She has also supported her version. It has been held by the Hon'ble Supreme Court in Motipur Sugar Factory vs. Workman Motipur Sugar Factory—AIR—1965—(S.C.) page 1808 that if no enquiry is held the employer has to satisfy the Court that on facts and evidence

the order of termination was proper. So the management can prove his case in this court by adducing evidence for the order of termination was valid. The statement of all the witnesses prove that the claimant had mis-behaved with Miss Bharti, which is mis-conduct amount to molestation of lady and a gross mis-conduct, and in such a case it was held that the termination was valid. It was held in KM Deb vs. Industrial Tribunal--1985 LIC Page 254--by the Gauhati High Court that the termination was valid.

These allegations have been denied by the workman. He has pleaded that he was terminated due to union activities. This contention cannot be said to be correct. It cannot be believed that Miss Bharti an un-married girl is deposing falsely. I, therefore, find that the claimant was dismissed on account of mis-conduct. It was further contended that he could not have been dismissed by the Works Manager. It is proved by MW-1 that the workman was appointed by him, vide appointment letter Exhibit M-1. Hence he could be validly dismissed by the Works Manager in view of the law laid down by the Hon'ble Supreme Court in Heckett Engineer Co. vs. Workman FLR--1977--Page 422. It is contended that no retrenchment compensation was issued to him at the time of termination as required under section 25-F of the Industrial Disputes Act, 1947. It has been stated by MW-1 Shri Chaku that retrenchment benefits were also offered with the termination letter Exhibit M-5, dated 22nd January, 1983. So the claimant was advised to collect his dues on 24th January, 1983. Hence the provisions of Section 25-F of the I.D. Act have not been complied with. He should have been offered the retrenchment compensation at the time of termination. In the present case no such benefit is required to be offered to the claimant as he was dismissed on the ground of gross mis-conduct.

In view of the above discussions, I find that the order of termination of services of the claimant was legal and justified. He is not entitled to any relief.

The award is given accordingly.

Dated : 21st May, 1985.

R. N. SINGAL,

Presiding Officer,

Labour Court, Faridabad.

Endorsement No. 1728, dated 1st June, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the I.D. Act.

R. N. SINGAL,

Presiding Officer,

Labour Court, Faridabad.

No. 9/5/84-6Lab./5097.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the Workmen and the management of M/s. Metal Fold, 106, New Colony, Gurgaon :—

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 89 of 1983

between

SHRI SURESH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S. METAL FOLD 106, NEW COLONY, GURGAON.

Present: —

Workman with Shri Dharam Vir.

None, for the respondent -management.

AWARD

This industrial dispute between the workman Shri Suresh, and the respondent-management of M/s. Metal Fold, 106, New Colony, Gurgaon has been referred to this court by the Hon'ble Governor of Haryana, vide his order No. ID/GGN/24-83/8715-20, dated 25th February, 1983 under Section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication of the Industrial Dispute. The terms of the reference are:—

Whether the termination of service of Shri Suresh was justified and in order?

If not to what relief is he entitled?

According to the claim statement, the claimant was appointed on 9th February, 1975

at the rate of Rs. 425 per mensem and his services were terminated on 22nd December, 1982. He has claimed reinstatement with continuity of service and with full back wages.

This claim was contested by the management. It was contended that on 19th October, 1982 the workman expressed his inability to work with the respondent and he had some complicated domestic problems at his home. His request was granted. He was paid his gratuity, earned leave upto 20th October, 1982. On 21st October, 1982 the management paid Rs. 2,214.19 in full and final settlement of his claim. The said payment was made in presence of witnesses.

The parties have compromised that the management would pay Rs. 1,900 in full and final settlement of his claim. Hence the case was fixed on 26th April, 1984 for payment. On 26th April, 1984 none appeared for the management. Hence this case was fixed for today. Even today none has appeared and the management has been proceeded *ex parte*.

The reference was contested on the following issues :—

- (1) Whether the workman left the job of his own after taking his full and final account?
- (2) As per reference?

I have heard the representative of the workman and gone through the evidence on record. My findings on the issues are as follows—

ISSUE NO. 1 :—

The parties have already examined the witnesses. The workman has stated that the voucher Ex. M-1 appears in his signature but he did not receive the amount. There is no resignation letter of the workman. Immediately after the receipt the workman put up his demand notice on 23rd December, 1983. This shows that the workman has never resigned. The signature on Ex. M-1 are contained only on the stamp. This stamp can be taken from any document and can be put up on the receipt. No cash book or ledger has been produced in this court that this amount was duly paid on 21st October, 1982. The statement of MW-2 Shri Krishan Kumar has no sanctity as he was the employee of Shri Padam Kumar Jain. The

workman also rebutted his averments in the statement as WW-1, I therefore, find that the workman has never left the service of his own and never received the fund and final payment. I therefore find the issue against the management.

ISSUE NO. 2 :—

The workman has completed 240 days of service on 22nd December, 1982 when his services were terminated. He joined on 9th February, 1975. Hence the provisions of Section 25-F were mandatory to be complied with before termination of the service of the workman. These provisions were not complied with. Hence the services of the workman were illegally terminated by the management. I, therefore, give the award that the workman is entitled for reinstatement with continuity of service and with full back wages.

Dated : 22nd May, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1729, dated 1st June, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under Section 15 of the I. D. Act.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

No. 9/5/84-6Lab./5099.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Indo Swiss Times Ltd., Delhi-Gurgaon Road, Gurgaon.

IN THE COURT OF SHRI R. N. SINGAL,
PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 383 of 1983

between

SHRI GURDAYAL SINGH RATHOR, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S. INDO SWISS TIMES LTD., DELHI-GURGAON ROAD, GURGAON.

Present :—

None for the workman.

Shri A. D. Kolhatkar for the respondent-management.

AWARD

This industrial dispute between Shri Gurdial Singh, workman and the respondent management of M/s. Indo Swiss Times Ltd., Delhi-Gurgaon Road, Gurgaon, has been referred to this court by the Hon'ble Governor of Haryana, —vide his order No. ID/GGN/109/83/58356-61, dated 8th November, 1983 under section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Gurdial Singh Rathor was justified and in order? If not, to what relief is he entitled?

The workman was proceeded ex parte on 17th May, 1983 as none appeared for the workman. According to the claim statement he was appointed on 6th June, 1983 as clerk in components store on 8th May, 1983. The workman was compelled to give responsibility of the entire components store. He was not allowed the duty till he executed the abovesaid responsibility. It is prayed that the workman be reinstated with full back wages and continuity of service.

The management has contended that the workman has absented himself and never reported for duty. His services were never terminated. Hence the reference is bad in law. Prior to that the workman has resigned on 25th February, 1983 but his resignation was not accepted. The claimant started remaining absent from 24th May, 1983. His position was also explained before the Labour-cum-Conciliation Officer. It was agreed that he should join from 1st August, 1983 but he failed to join duty. It was brought to the notice of the Conciliation Officer,—vide letter dated 8th August, 1983. Again letter dated 22nd August, 1983 was also written. The management was already willing to and ready to take the workman on duty, but the workman himself left the job. It is denied that pressure was brought on him for taking responsibilities of full components of the store.

The workman has denied his averments in the rejoinder. The reference was contested on the following issues:—

1. Whether the workman has left his employment of his own?

2. As per reference?

I have heard the representative of the management and gone through the evidence on file. My findings on the issues are as under:—

Issue No. 1 and II—MW-1 and MW-2 has management has not terminated the services of the workman. It further stated that the workman remaining absent on 6th May, 1983. Letter was also written to him on 8th August, 1984 which is Exhibit M-2. Before the Conciliation Officer also the letter was written that the management was ready to take him on duty. Its photo copy is Exhibit M-3. This court has also ordered to join duty,—vide order dated 16th November, 1984. The management informed,—vide letter dated 22nd November, 1984 that the workman did not join duty on 16th November, 1984 again a letter was received on 4th December, 1984 that he started absenting from duty from 18th November, 1984. A letter of the workman was also received in this court. He was given duty to complete the ledger. No work was done in these registers, since August. He was also told that he joined duty afresh. He was also not allowed to mark his presence. He was not given duty on the old seat. All the acts of the management are illegal. This letter of the workman also shows that he did not join duty afterwards. He was adamant to join duty on the previous seat but it was privilege of the management to join him duty on any seat they like in which he was appointed. He was appointed as clerk so he could be appointed as clerk on any seat. All these facts show that the workman left the job as he is not ready to join duty after the directions of the Conciliation Officer and order of this court. He is, therefore, not entitled to any relief.

The award is given against the workman.
Dated, 24th May, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1731, dated 1st June, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.